

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 WILLIAM J. GRADFORD,

12 Plaintiff,

13 v.

14 F. VELASCO and T. WEBSTER,

15 Defendants.
16
17

No. 1:20-cv-00543-NONE-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
"MOTION TO COMPELL WHEN SAFE AND
SECURE," AND "PLAINTIFF'S MOTION
FOR ORDER RE ORDER CONCERNING
NOTICE OF VOLUNTARY DISMISSAL" BE
DENIED

(ECF Nos. 54, 57)

FOURTEEN-DAY DEADLINE

18 Plaintiff William J. Gradford ("Plaintiff"), a former pretrial detainee proceeding *pro se*
19 and *in forma pauperis* in this civil-rights action brought under 42 U.S.C. § 1983, commenced this
20 action by filing a complaint on April 16, 2020. (ECF No. 1). On May 6, 2021, Plaintiff filed two
21 documents labeled motions: "Plaintiff's motion to compel when safe and secure," (ECF No. 54)
22 (as in original), and "Plaintiff's request order concerning notice for voluntary [42] dismissal,"
23 (ECF No. 57) (brackets in original). Because neither requests any relief, the Court recommends
24 denying both documents entitled motions.
25

26 The motion to compel states:

27 Plaintiff William J. Gradford, a former pretrial detainee *pro se* and *in forma*
28 *pauperis*, filed a document entitled 'Plaintiff request dismiss cases and all pending
other cases volntar[i]ly claims and defendants' (ECF No. 43) [42] Plaintiff request

1 motion to compel when safe and secure.”

2 (ECF No. 54) (as in original).

3 The other document is a handwritten copy of much of the Court’s April 19, 2021 order
4 concerning Plaintiff’s April 16, 2021 motion to dismiss. (*Compare* ECF No. 43 *with* ECF No.
5 57). Thus, it does not request any specific relief either.

6 As the Court has twice informed Plaintiff before, (*see* ECF Nos. 40 & 50), a document
7 that requests no specific relief is not a proper motion. *See Melendez v. United States*, 518 U.S.
8 120, 126 (1996) (quoting Black’s Law Dictionary 1013 (6th ed. 1990)) (“[T]he term ‘motion’
9 generally means ‘an application made to a court or judge for purpose of obtaining a rule or order
10 directing some act to be done in favor of the applicant.’ ” (quoting Black’s Law Dictionary (6th
11 ed.) (brackets omitted)); *Tagle v. Nevada*, 2017 WL 11496980, at *1 (D. Nev. June 14, 2017)
12 (“Tagle’s Motion does not request any specific relief from the Court, let alone provide factual or
13 evidentiary support or legal authority for his motion. Accordingly, the motion is denied.”); *Tyler*
14 *v. Scott*, 124 F.3d 192 (5th Cir. 1997) (table, unreported) (denying “a motion concerning
15 jurisdiction which does not request any form of relief”); *Crenshaw v. City of Defuniak Springs*,
16 891 F. Supp. 1548, 1559 (N.D. Fla. 1995) (“The plaintiff’s other motion ... recapitulates
17 allegations from previous motions, but does not request relief, and is denied.”); *United States v.*
18 *Moussaoui*, 2002 WL 1987912, at *1 (E.D. Va. July 30, 2002) (“Because this
19 ‘motion’ does not request any specific relief, it is DENIED.”).

20 On April 30, 2021, the Court warned Plaintiff that several of his filings have been
21 frivolous and that further frivolous filings may result in sanctions against him, up to and including
22 dismissal of this action. (ECF No. 50 at 3-6). Again, these two filings are objectively
23 unreasonable. They are labeled motions but seek no specific relief. In addition, they appear in part
24 to be copies of the Court’s previous orders. In an abundance of caution, the Court will not
25 recommend issuing sanctions at this time, because it is possible that Plaintiff had not received the
26 Court’s April 30, 2021 warning when he filed the instant documents. However, Plaintiff is
27 warned that further frivolous filings may result in sanctions, up to and including dismissal of this
28 action.

1 Accordingly, it is HEREBY RECOMMENDED that “Plaintiff’s motion to compel when
2 safe and secure” and “motion for order re order concerning notice of voluntary dismissal” (ECF
3 Nos. 54 & 57) be DENIED.

4 These findings and recommendations will be submitted to the United States district judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
6 (14) days after being served with these findings and recommendations, the parties may file
7 written objections with the Court. The document should be captioned “Objections to Magistrate
8 Judge’s Findings and Recommendations.” The parties are advised that failure to file objections
9 within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772
10 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

11
12 IT IS SO ORDERED.

13 Dated: May 6, 2021

14 /s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28